

**Speech-Language Pathology and Audiology Board**

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**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD
Kensington Park Hotel
450 Post Street
"Sherwood Room"
San Francisco, CA
April 16, 2004
MINUTES**

Members Present

Marcia Raggio, Ph.D., Chairperson
Alison Grimes, AuD
Rebecca Bingea, M.A.
James Till, Ph.D.
Bruce Gerratt, Ph.D.

Staff Present

Annemarie Del Mugnaio, Executive Officer
Candace Raney, Staff Analyst
Lori Pinson, Staff Analyst
Bob Miller, Legal Counsel

Members Absent

Sherry Washington, M.A.
Vivian Shannon, M.A.
Paul Donald, M.D.

Guests Present

Robert Powell, California Speech-Language Hearing Association
Jan Speirs, Scripps Memorial Hospital, California Speech-Language Hearing Association
Kimberly Skinner, California Academy of Audiology
Kathy Matonak, California Academy of Audiology
Dennis Van Vliet, Audiologist
Dixie Imada, Audiologist
Jeff Hanson, Occupational Therapy Board

I. Call to Order

Chairperson Raggio called the meeting to order at 9:20 a.m.

II. Introductions

Those present introduced themselves.

III. Election of Officers

Ms. Del Mugnaio explained that this item was agendized in error. The Board's election of officers took place at the January 2004 meeting.

IV. Approval of meeting minutes for January 22-23, 2004 - Committee Meetings and Full Board Meeting

The Board discussed minor grammatical edits to the minutes.

M/S/C: Grimes/Till

The Board approved the April 15-16, 2004 Committee Meeting and Full Board Meeting minutes as amended.

V. Chairperson's Report (Marcia Raggio) American Academy of Audiology State Leader's Workshop and Conference – March 31- April 3, 2004, Salt Lake City, Utah

Ms. Raggio stated that she attended the American Academy of Audiology (AAA) Conference State Leaders Meeting. The meeting was led by Barry Freeman, Past-President of AAA and Chair of the Subcommittee on Licensure (a subcommittee under the Legislative Committee).

Ms. Raggio stated that there were representatives present from 20 states and most of the attendees were licensing board members.

Ms. Raggio explained that there are many differences across the states regarding licensure, in terms of dispensing license configurations and provisional licenses.

Ms. Raggio stated that Dr. Freeman distributed a model licensing law, "Regulation of the Profession of Audiology." This model law states, "...it is the policy of the state to service the public by further expanded education and training requirements for providers of audiology services, through transition to doctorate status for all such providers."

Ms. Raggio stated that it further suggests that the audiologist hold a doctoral degree or its equivalent as of January 1, 2007. However, there appears to be language supporting the master's degree holder.

Ms. Raggio stated that Dr. Freeman asked the participants if they believed that the following language might be supported or accepted by their state legislatures, and many states answered in the affirmative. However, California audiologists noted that there would be no motivation in California to adopt such language since we already have a provision for a master's degree or a higher educational degree equivalence.

Ms. Raggio stated that Dr. Freeman acknowledged California's problems with providing doctoral education, and preferred to focus on those states that would have less difficulty implementing degree programs and licensing law changes to require a doctoral degree as the entry-level requirement for audiology practice.

Ms. Raggio stated that some individuals expressed fears of "opening up licensing laws" and possibly bringing unwanted focus on existing provisions and possible professional losses.

Ms. Raggio explained that the issue of allowing fourth-year doctoral students to be licensed arose. She stated that many feel that it would be unethical for a student to be working as a paid professional when they still hold student status. Others feel that these individuals will be better trained as fourth-year doctoral students than the presently practicing master's level audiologists who, by law, are adequately trained to provide safe and effective services to the public. Yet others feel the fourth-year students should be given provisional licenses so that the clinical agencies that are supporting their internships can bill for services provided by the student.

The Board discussed the issue of licensure for the fourth-year doctoral student at great length as well as the issue of whether the student should receive a salary or stipend, etc.

Ms. Del Mugnaio cautioned that labor laws should be reviewed to determine if this arrangement would be in violation of any of those laws.

Ms. Raggio stated that she also wanted to make those present aware that with the combined efforts of Sherrin Massie of the California Academy of Audiology (CAA) and members of the California Speech-Language Hearing Association's (CSHA) Board of Directors, a new relationship has been born between the CAA and CSHA. An agreement has been reached which acknowledges that CAA will serve as the voice of audiology in the state of California, and CSHA will serve as the voice of speech-language pathology. She stated that audiologists will continue to be accepted as members of CSHA, however, an eventual discouragement in membership will occur. She explained that both organizations would support each other's legislative and educational endeavors when appropriate.

Ms. Raggio stated that, as a first collaborative effort, both groups are planning a workshop with Dr. Jack Katz on central auditory processing evaluation and remediation to be held in October 2004.

Ms. Raggio stated that many audiologists have been contacted via e-mail by Tess Kirsch, a representative of the American Speech-Language-Hearing Association (ASHA), Council

on Academic Accreditation in Audiology and Speech-Language Pathology. She explained that Ms. Kirsch was writing on behalf of the Council to inform individuals that the Council has revised its policies regarding eligibility for post-baccalaureate education programs that seek accreditation through the Council on Academic Accreditation, particularly regarding eligibility for audiology.

Ms. Raggio provided a summary of the revisions and the new Council on Academic Accreditation policy.

Ms. Raggio expressed frustration regarding the lack of cooperation by the University of California system in moving forward with a joint doctoral program.

VI. Committee Reports

A. Continuing Professional Development Practice Committee (Gerratt)

Mr. Gerratt stated that the Continuing Professional Development (CPD) Committee met on April 15, 2004. The Committee reviewed and considered the denial of three CPD courses as applicable toward license renewal. The courses were "A Case Presentation: Aspiration Pneumonia and the Vest", "Update on Fragile X Syndrome", and "Anger Management Strategies for Developmentally Disabled Clients and Staff."

This Committee discussed the courses to assess the direct or indirect relevance to speech-language pathology and determined that the courses are not directly related to speech-language pathology. The Committee voted to uphold the denial of the courses.

In addition, the Committee discussed and considered additional documentation submitted regarding a course titled "Animal Assisted Therapy."

Mr. Gerratt stated that this course has been discussed at a previous meeting and determined not to be related to the practices of audiology or speech-language pathology.

Mr. Gerratt stated that the Committee reviewed the additional documentation provided by the course provider and voted to uphold the previous denial of the course.

B. Audiology Practice Committee (Bingea)

Ms. Bingea stated that the Audiology Practice Committee met on April 15, 2004 with all Committee Members present.

Ms. Bingea explained that the Audiology Practice Committee discussed the issue of Audiology Support Personnel: Roles, Responsibilities, and Supervision. She stated that the Committee reviewed legal counsel's opinion regarding vestibular function studies and the Committee voted to recommend to the Board to adopt the legal opinion that vestibular testing is within the scope of practice of audiology and must be performed by a licensed audiologist or an aide under the direct supervision of an audiologist. In addition, the Medical Practices Act allows for the test to be performed by a physician or someone under the direct supervision of a physician.

Ms. Bingea stated that the Committee discussed the issue of access and determined that there is not compelling evidence to support that consumer access is an issue. She stated that there are no varying levels of supervision for an aide performing vestibular function studies, and direct supervision is defined as an audiologist being physically present and able to oversee the aide performing the test.

Ms. Bingea stated that the Committee voted to recommend to the Board to include the issue of audiology support personnel in the Board's Sunset Review Report, which would invite public input regarding the need for amendments to the existing support personnel laws and regulations.

Ms. Bingea stated that the Committee discussed several legislative items. The first item of discussion was SB 1158 regarding hearing aid coverage. She explained that SB 1158 replaces the former SB 174. This bill would provide \$1000 of coverage for hearing aids for persons under 18 years of age. The Committee voted to recommend to the Board to send a letter of support for this bill.

Ms. Bingea stated that the Committee also discussed AB 2426 that addresses Worker's Compensation medical examiners. This bill adds a doctor of audiology to the definition of a qualified medical examiner for worker's comp. The Committee supports the concept of this bill. However, the Committee determined that the bill is unclear in the present format and is not at a point where the Board could take a formal position. The Committee directed the Executive Officer to track this bill.

Ms. Bingea stated that the Committee discussed AB 2354 regarding health care discount programs and the recent revision to the bill. The amendment changed the bill to prohibit the sale of discount healthcare plans in California. She explained that the impetus of this bill appears to be a consumer protection initiative developed to protect consumers from being misled to believe that participating in a health care discount program is a form of health insurance. The Committee voted to support this bill inasmuch as it supports the current prohibitions in Business and Professions Code Section 650.

Ms. Bingea stated that the Committee discussed the American Board of Audiology (ABA) Certification Standards and Licensure Equivalence. She explained that this topic originated from correspondence from the American Board of Audiology requesting that the Board recognize the ABA certification as equivalent to audiology licensure standards just as it currently recognizes the ASHA Certificate of Clinical Competence (CCC) as an equivalent standard. Ms. Del Mugnaio noted that this correspondence was not received by the Board but rather received second-hand by Ms. Raggio. Ms. Del Mugnaio also noted that the Board did not initiate the existing equivalency provisions but rather it was a movement by CSHA. The Committee voted to recommend to the Board that, if such a letter should be received by the Board, the Board should respond and explain that it would be inappropriate for the Board to be involved in supporting the certification standards of a specific professional body. It should also be noted that either CAA or CSHA may be responsive in proposing such a legislative movement.

M/S/C: Grimes/Gerratt

The Board voted to accept the report and recommendations of the Audiology Practice Committee.

C. Speech-Language Pathology Practice Committee (Till)

Mr. Till stated that the Speech-Language Pathology Practice Committee met on April 15, 2004. Mr. Till stated that Ms. Raggio appointed Ms. Grimes to serve as a temporary member of this Committee in order to establish a quorum.

Mr. Till stated that each item of discussion on the Committee agenda was a legal analysis prepared by George Ritter, Senior Staff Counsel.

Mr. Till explained that the first analysis concerned whether speech-language pathologists can supervise occupational therapists who are seeking to obtain on-the-job training in swallowing assessment evaluation or intervention. An occupational therapist will be required to obtain 240 hours of supervised training under proposed regulations. The proposed regulations suggest that one way to obtain the required training would be to have a speech-language pathologist supervise the training. Mr. Ritter's legal analysis concluded that occupational therapists who wish to be supervised by speech-language pathologists must be registered with the Board as speech-language pathology aides to properly engage in the clinical activities that constitute that practice of speech-language pathology (e.g. swallowing evaluation or intervention).

Mr. Till proposed that the Committee recommend to the Board to prepare and post an informational statement regarding this issue on the Board's website. All Committee Members agreed.

Mr. Till stated that the Committee voted unanimously to recommend that the Board adopt the legal opinion written by Mr. Ritter, "Supervision of Aides & Occupational Therapists."

Mr. Till stated that the next item of discussion was a legal analysis regarding whether the use of electrical stimulation for dysphagia therapy is within the scope of practice of speech-language pathology. Mr. Ritter concluded in his legal opinion that the use of electrical stimulation to treat dysphagia is within the current scope of practice for speech-language pathology. Mr. Ritter also strongly cautioned that it might be challenging to the Board to ensure that licensees who use the technique do so in a safe and competent manner.

The Committee had significant discussion regarding the issues of safety, risk, training, and efficacy. In addition, the Committee acknowledged receiving communication, in writing, from a licensee arguing that regulation regarding appropriate training may be required with this technique.

The Committee voted unanimously to recommend that the Board adopt the legal opinion written by Mr. Ritter, "Electrical Stim Therapy for Swallowing."

The Committee also requested that the Executive Officer in conjunction with Legal Counsel draft an informative statement regarding the use of electrical stimulation in treating dysphagia to be presented at the next Board meeting where public comment regarding the statement would be considered.

Mr. Till stated that the Committee also discussed a legal opinion regarding whether performing deep suctioning is within the scope of practice of speech-language pathology. Mr. Ritter concluded in his legal opinion that deep suctioning is an invasive procedure and that no invasive procedure, other than endoscopy, is specifically authorized by Business and Professions Code Section 2530.2.

The Committee voted to recommend that the Board adopt the legal opinion regarding deep suctioning. However, the Committee also discussed whether the Board should move toward legislative amendments to include deep suctioning in the speech-language pathology scope of practice.

Mr. Powell stated that CSHA may be interested in initiating such a movement.

M/S/C: Gerratt/Bingea

The Board voted to accept the report and recommendations of the Speech-Language Pathology Practice Committee.

VII. Executive Officer's Report (Annemarie Del Mugnaio)

A. Budget Update

Ms. Del Mugnaio stated that the Board packet includes an updated budget projection. She explained that the out-of-state blanket request includes funds set aside for travel to meetings, conventions, etc. outside of California. The 2004-2005 blanket request includes a trip to the National Council of State Boards (NCSB) 2004 Convention, the Council on Licensure, Enforcement and Regulation (CLEAR) Conference, and a request for travel to the Annual Meeting of the Federation of Associations of Regulatory Boards (FARB). This meeting covers a wide variety of issues that relate to governmental regulatory oversight. Many other executive officers have found the FARB meeting to be particularly beneficial in providing insight and information relative to administrative and enforcement issues. She explained that she is hopeful that this blanket request will be approved.

B. Board Member Ethics Training and Orientation

Ms. Del Mugnaio reminded all members that ethics training and board member orientation are required for all board members and reiterated that if any member has not completed either of these requirements, the deadline has passed and must be completed as soon as possible.

VIII. Enforcement/Licensing Statistical Reports (Candace Raney/Lori Pinson)

Ms. Del Mugnaio explained that the current statistical reports for enforcement and licensing were included in the Board packets.

Ms. Del Mugnaio also explained that Board staff has begun issuing citations for failure to comply with the Board's CPD program, and those statistics are reflected in the enforcement statistical report.

Ms. Del Mugnaio also pointed out that many of the Board's enforcement cases stem from arrest and/or convictions for crimes that may have a substantial relationship to practice as an audiologist or speech-language pathologist.

IX. Legislation

A. Proposed Legislative Change Regarding Continuing Professional Development Course Approval

Ms. Del Mugnaio explained that SB 1913 will include this proposed legislative amendment.

B. Proposed Legislative Change Regarding Registration of Professional Corporations

Ms. Del Mugnaio stated that this is a clean-up provision. She explained that there is a provision in the Corporations Code that requires licensees forming professional corporations to file a certificate with the regulatory board that oversees the profession. When the Board was under the auspices of the Medical Board, the Board was exempt from this provision. However, effective January 1, 2002, pursuant to a legislative amendment, the Board was removed from under the auspices of the Medical Board and placed directly under the Department of Consumer Affairs. This proposed amendment would add the Speech-Language Pathology Board to the list of agencies exempt from the provision.

M/S/C: Grimes/Bingea

The Board voted to support the proposed legislative amendment.

C. AB 750 – Medi-Cal Durable Medical Equipment

Ms. Del Mugnaio stated that the Board reviewed this bill at the last Board meeting. However, at that time it had not been amended to define durable medical equipment as being applicable only to that related to mobility. She explained that it has been amended to do so.

Ms. Del Mugnaio stated that she will continue to track this bill and report to the Board at the next Board meeting regarding its status.

D. AB 2909 – Early Intervention Services

Ms. Del Mugnaio stated that AB 2909 reflects early intervention services provided under Individuals with Disabilities Education Act.

Mr. Powell stated that representatives of CSHA, including himself, met with the Deaf community and the Department of Education, the bill's sponsor. He explained that the Federal law for special education, under infant/toddler early intervention services 0-3 years, lists specific services including instructional services, speech-language pathology services as well as audiology services. AB 2909 would require that services provided to the deaf must be provided by an individual with a teacher's credential in deaf education. Mr. Powell indicated that the provisions are confusing in that some may interpret the provisions to require that anyone providing instructional services to the hearing impaired must be credentialed teachers for the deaf. Mr. Powell stated that CSHA has requested an exemption for speech-language pathology and audiology services.

Ms. Del Mugnaio stated that she will continue to track this bill and report on its status at the next Board meeting.

E. Other Legislation of Interest to the Board

Ms. Del Mugnaio stated that another bill of interest to the Board is AB 2912 regarding sign language interpreters. This bill would impose civil penalties for those believed to be using American Sign Language (ASL) without being ASL certified.

Mr. Powell stated that representatives of CSHA have requested an exemption from the provision for speech-language pathologists and audiologists.

Ms. Del Mugnaio stated that she will continue to track this bill as well.

Ms. Del Mugnaio stated that AB 320 would prohibit a licensee or a person acting on behalf of a licensee, whether it be an attorney or some other entity, from inserting into a settlement agreement, a provision whereby a complainant would be prohibited from filing a complaint with the Department or from pursuing an enforcement action against the licensee. If a licensee or an agent acting on behalf of a licensee were to do this, that individual would be subject to discipline by virtue of doing that act.

Ms. Del Mugnaio stated that the Department has asked that those boards in support of this legislation send a support letter to the appropriate legislative policy committee.

M/S/C: Till/Grimes

The Board voted to send a letter of support regarding AB 320.

Ms. Del Mugnaio stated that SB 1549 is the Joint Legislative Sunset Review Committee bill that would extend the Board's sunset date. She stated that the Board has not yet been added to this bill but she is hopeful this will be accomplished soon.

X. Discussion on Proposed Amendments to California Code of Regulations Sections 1399.152 & 1399.156.4 Regarding Board-Approved Institutions & the Advertisement of Professional Degrees

Ms. Del Mugnaio stated that the meeting packets contain the most recent draft (April 2004) prepared by the California Council of Academic Programs in Communicative Sciences Disorders (Council) for consideration in defining "board-approved institutional program."

Ms. Del Mugnaio stated that Ms. Raggio and Ms. Grimes have been in contact with the Council to express concerns they have with the previous draft language that was reviewed at the January Board meeting.

Ms. Raggio recused herself from participation in deliberation on this matter due to Ms. Raggio's involvement and employment responsibility with developing an AuD program at San Francisco State University.

Mr. Till stated that he is pleased to see many of the Board's concerns with the original draft language have been addressed in the latest draft. However, the Board reviewed and discussed the document submitted by the Council and expressed concern that the latest draft still fails to address some of the inadequacies identified in the Council's January 2004 document.

Ms. Del Mugnaio suggested that the Board establish a taskforce of possibly two Board members from each profession with the charge of developing language that will address the specific program accreditation and staffing requirements a program must possess in order to be acknowledged as a Board-approved program. The proposal can be brought back before the full Board at the July 2004 meeting.

Ms. Raggio appointed Ms. Grimes and Mr. Till to serve as the taskforce to develop the proposed language.

M/S/C: Grimes/Till

The Board voted to adopt the appointment of Ms. Grimes and Mr. Till to form a taskforce to draft alternative proposed language to bring back to the Board at the July 2004 Board meeting.

XI. Review Professional Responsibilities of Speech-Language Pathologists and Audiologists in Providing Aural Rehabilitation Therapy

Ms. Dixie Imada, Rehabilitative Audiologist, addressed the Board regarding the responsibilities of speech-language pathologists and audiologists in providing aural rehabilitation therapy.

Ms. Del Mugnaio stated that this issue stems from a phone call and subsequent e-mail received by the Board from California Children Services (CCS) asking if an audiologist can provide speech rehabilitation to hearing impaired individuals. The manner in which the question was posed to Board staff was, "Can an audiologist practice speech-language

pathology without being a licensed speech-language pathologist?” Ms. Del Mugnaio stated that the answer to that question is “No.” However, it is appropriate for an audiologist to provide aural rehabilitation to hearing impaired individuals and that those services are within the scope of practice of audiology.

Ms. Del Mugnaio explained that the ASHA Code of Ethics includes aural rehabilitation as part of the scope of practice of audiology.

Ms. Imada presented the Board with written information regarding her practice as an audiologist providing aural rehabilitation. The Board commended Ms. Imada for her work with hearing impaired individuals.

XII. Proposed Amendments to the SLPAB Strategic Plan for 2004-2005

Ms. Del Mugnaio explained that she has amended the Board’s previous strategic plan to eliminate some of the Board’s more outdated accomplishments and to update the document with some of the Board’s more recent actions and activities.

Ms. Del Mugnaio requested additional input from the Board Members. She recommended that the Board Members e-mail her with information.

M/S/C: Grimes/Till

The Board voted to conceptually adopt the amended 2004 strategic plan.

XIII. Discuss Draft Sunset Review Report and Related Issues

Ms. Del Mugnaio provided the Board with a summary of the current status of the Sunset Review Report.

The Board discussed the document, proposed amendments and agreed to continue to work toward a completed document for submission by fall of 2005.

XIV. Meeting Calendar 2004/2005

The Board discussed the meeting calendar for 2004. The following meetings are scheduled: July 15 & 16, 2004 in Los Angeles, September 23 & 24, 2004 in Sacramento and January 13 & 14, in San Francisco.

XV. Public Comment on Items Not on the Agenda

There were no additional public comments.

XVI. Announcements

Next Board Meeting is July 15-16, 2004 Los Angeles

The next Board meeting will be held in Los Angeles on July 15 & 16, 2004.

XVII. Adjournment

There being no additional items for discussion, Chairperson Raggio adjourned the meeting at 2:15 p.m.

Annemarie Del Mugnaio, Executive Officer